



[4335-30]

## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

[Docket No. ONRR-2011-0009; DS63644000 DR2000000.CH7000 178D0102R2]

### Agency Information Collection Activities: Collection of Monies Due the Federal Government

**AGENCY:** Office of Natural Resources Revenue (ONRR), Interior.

**ACTION:** Notice.

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is inviting comments on a collection of information requests that we will submit to the Office of Management and Budget (OMB) for review and approval. This Information Collection Request (ICR) covers the paperwork requirements in title 30, *Code of Federal Regulations* (CFR), part 1218. This ICR pertains to cross-lease netting in calculation of late-payment interest; a lessee's designation of designee; and Tribal permission for recoupment on Indian oil and gas leases.

**DATES:** You must submit your written comments on or before **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments on this ICR to ONRR by using one of the following three methods. Please reference "ICR 1012-0008" in your comments.

- Electronically go to <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter "ONRR-2011-0009," then click "Search." Follow the instructions to submit public comments. ONRR will post all comments.

- Email comments to Mr. Armand Southall, Regulatory Specialist, at *Armand.Southall@onrr.gov*.
- Hand-carry or mail comments, using an overnight courier service, to ONRR. Our courier address is Building 53, entrance E-20, Denver Federal Center, West 6<sup>th</sup> Ave. and Kipling St., Denver, Colorado 80225. Visitor parking is available near entrance E-20, with a phone to request entry. Call Mr. Armando Salazar at (303) 231-3585 or Ms. Janet Giron at (303) 231-3088 to gain entrance.

**FOR FURTHER INFORMATION CONTACT:** For questions on technical issues, contact Mr. Hans Meingast, Financial Services, FM, ONRR, telephone (303) 231-3382, or email *Hans.Meingast@onrr.gov*. For other questions, contact Mr. Armand Southall, telephone (303) 231-3221, or email *Armand.Southall@onrr.gov*. You may also contact Mr. Southall to obtain copies (free of charge) of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information. You may also review the information collection request online at

*<http://www.reginfo.gov/public/do/PRAMain>.*

**SUPPLEMENTARY INFORMATION:**

*Abstract:* The Secretary of the United States Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to manage mineral resources production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected. ONRR performs the royalty management functions and assists the Secretary in carrying out the Department's responsibilities. We have posted those laws pertaining to

mineral leases on Federal and Indian lands and the OCS at

[http://www.onrr.gov/Laws\\_R\\_D/PubLaws/default.htm](http://www.onrr.gov/Laws_R_D/PubLaws/default.htm).

## **I. General Information**

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals. The information collected includes data necessary to ensure that production is accurately valued and that royalties are appropriately paid.

## **II. Information Collections**

This ICR covers unique reporting circumstances, including (1) cross-lease netting in calculation of late-payment interest; (2) a lessee's designation of a designee; and (3) Tribal permission for recoupment on Indian oil and gas leases.

### *A. Cross-Lease Netting in Calculation of Late-Payment Interest*

Regulations at § 1218.54 require ONRR to assess interest on unpaid or underpaid amounts. ONRR distributes these interest revenues to States, Indian Tribes, and the U.S. Treasury based on financial lease distribution information. Current regulations at § 1218.42 provide that an overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine the net payment subject to interest when certain conditions are met. This process is called cross-lease netting. The payor must demonstrate that a cross-lease netting exception exists by submitting

production reports, pipeline allocation reports, or other similar documentary evidence.

This information is necessary in order for ONRR to determine the correct amount of interest that the lessee owes and to ensure that we collect in full all monies owed to the Federal government.

#### *B. Designation of Designee*

The Royalty Simplification and Fairness Act (RSFA) defines a “lessee” to include both the owner of operating rights and the owner of record title. Under RSFA, owners of operating rights are primarily liable, and owners of lease record title secondarily liable for making royalty and related payments on Federal oil and gas leases (see 30 CFR 1218.52). It is common however, for a payor other than a lessee to make these payments. When a payor makes payments on behalf of a lessee, RSFA section 6(g) requires that the lessee designate the payor as its designee and notify ONRR of its designation in writing. We designed form ONRR-4425, Designation Form for Royalty Payment Responsibility, to request all the information necessary for lessees to comply with these RSFA requirements when choosing to designate an agent to pay for them. We require this information to ensure proper mineral revenue collection.

#### *C. Tribal Permission for Recoupment on Indian Oil and Gas Leases*

Overpayments on Tribal Indian leases may be recouped against royalties or other revenues owed in a month under other leases for which that Tribe is a lessor. To do so, lessees must comply with regulations at 30 CFR 1218.53(b), allowing only lessees with written permission from the Tribe to recoup overpayments on one lease against a different lease for which the Tribe is the lessor. The payor must provide ONRR with a copy of the Tribe’s written permission.

### III. OMB Approval

We are requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge the duties of the office and may also result in the loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

### IV. Data

*Title:* Collection of Monies Due the Federal Government - 30 CFR Part 1218.

*OMB Control Number:* 1012-0008.

*Bureau Form Number:* Form ONRR-4425.

*Frequency:* On occasion.

*Estimated Number and Description of Respondents:* 35 Federal and Indian lessees.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 59 hours.

We have not included in our estimates certain requirements performed in the normal course of business, which are considered usual and customary. The following table shows the estimated burden hours by CFR section and paragraph:

**RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS**

Citation 30 CFR Part 1218	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
<b>Subpart A—General Provisions— Cross-lease netting in calculation of late-payment interest.</b>				
1218.42 (b) and (c)	<b>Cross-lease netting in calculation of late-payment interest.</b> (b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset . . . if . . . the payor submits production reports, pipeline allocation reports, or other similar documentary	2	25	50

Citation 30 CFR Part 1218	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	evidence pertaining to the specific production involved which verifies the correct production information . . . . (c) If ONRR assesses late-payment interest and the payor asserts that some or all of the interest is not owed . . . the burden is on the payor to demonstrate that the exception applies . . . .			
<b>Subpart B—Oil and Gas, General—How does a lessee designate a Designee?</b>				
1218.52 (a), (c), and (d)	<b>How does a lessee designate a Designee?</b> (a) If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf . . . you must notify ONRR . . . in writing of such designation. . . . (c) If you want to terminate a designation . . . you must provide [the following] to ONRR in writing . . . . (d) ONRR may require you to provide notice when there is a change in the percentage of your record title or operating rights ownership.  ONRR currently uses Form ONRR-4425, Designation Form for Royalty Payment Responsibility, to collect this information.	0.75	5	4
<b>Subpart B—Oil and Gas, General— Recoupment of overpayments on Indian mineral leases.</b>				
1218.53 (b)	<b>Recoupment of overpayments on Indian mineral leases.</b> (b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed . . . under other leases . . . . A copy of the tribe's written permission must be furnished to ONRR . . . .	1	5	5
<b>TOTAL BURDEN</b>			<b>35</b>	<b>59</b>

*Estimated Annual Reporting and Recordkeeping “Non-hour” Cost Burden:* We have identified no “non-hour cost” burden associated with this collection of information.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

## **V. Request for Comments**

Section 3506(c)(2)(A) of the PRA requires each agency to “\* \* \* provide 60-day notice in the **Federal Register** \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.”

Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information that ONRR collects; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting “non-hour cost” burden to respondents or record-keepers resulting from the collection of information. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods that you use to estimate (1) major cost factors, including system and technology acquisition, (2) expected useful life of capital equipment, (3) discount rate(s), and (4) the period over which you incur costs. Capital and startup costs include, among other items, computers and software that you purchase to prepare for collecting information and monitoring,

sampling, and testing equipment, and record-storage facilities. Generally, your estimates should not include equipment or services purchased (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Federal government; or (iv) as part of customary and usual business, or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you, without charge, upon request. We also will post the ICR at [http://www.onrr.gov/Laws\\_R\\_D/FRNotices/FRInfColl.htm](http://www.onrr.gov/Laws_R_D/FRNotices/FRInfColl.htm).

*Public Comment Policy:* ONRR will post all comments, including names and addresses of respondents at <http://www.regulations.gov>. Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask us, in your comment, to withhold PII from public view, we cannot guarantee that we will be able to do so.

*ONRR Information Collection Coordinator:* Armand Southall (303) 231-3221

### **Authority**

The authorities for this action are the Mineral Leasing Act of 1920 (30 U.S.C. 192), Outer Continental Shelf Lands Act (43 U.S.C. 1353), Indian Mineral Development Act of 1982 (Pub. L. 97-382—Dec. 22, 1982), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).



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Gregory J. Gould,

*Director for Office of Natural Resources Revenue*

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